

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
17 EHR 04414

Donald Wooten,)	
)	
Petitioner,)	
)	
v.)	SETTLEMENT AGREEMENT
)	
North Carolina Department of)	
Environmental Quality,)	
Division of Water Resources,)	
Respondent.)	
)	

Petitioner Donald Wooten and Respondent North Carolina Department of Environmental Quality ("DEQ"), Division of Water Resources, hereby enter into this Settlement Agreement ("Agreement") in order to resolve a matter in controversy between them pursuant to N.C.G.S. § 150B-31(b). This matter arose out of the assessment of a civil penalty in the amount of six thousand dollars (\$6,000.00) (Case No. 2C-2017-0001) by Respondent against Petitioner. The civil penalty was assessed on May 30, 2017, for the following alleged violations: disinfecting, or causing to be disinfected, sixty wells using an alternative disinfectant without prior approval of the Department in violation of 15A NCAC 2C .0111(b)(2), as more fully described in the Civil Penalty Assessment, the Document Constituting Agency Action in this contested case, which the Respondent denied, contending, among other things, that no violation occurred and prior approval was provided by the Respondent.

The Notice of Violation (NOV-2017-2C-0001) that preceded the Civil Penalty Assessment and was cited in the Civil Penalty Assessment was closed on June 2, 2017, and any

remaining issues raised by the Notice of Violation and Civil Penalty Assessment are resolved pursuant to this Agreement.

Without any hearing of fact or law in the above-styled matter, IT IS THEREFORE AGREED BY THE PARTIES THAT:

1. All parties have been correctly designated and that there is no question as to misjoinder or nonjoinder.
2. In order to avoid the cost and delay of further litigation, the parties have entered into this Agreement, which is a negotiated compromise between the parties. It is understood and agreed that this Settlement Agreement, the payments made or actions taken pursuant to the terms of this Agreement are not to be construed as an admission of wrongdoing or liability on the part of Petitioner, and that this Agreement is a compromise of disputed claims.
3. Petitioner shall pay Respondent four thousand and two hundred dollars (\$4,200.00) (“Settlement Amount”) in full settlement of the civil penalty assessment of May 30, 2017. The Settlement Amount shall be paid in twelve monthly installment payments of three hundred and fifty dollars (\$350.00) each, as follows:
 - a. the first payment shall be due June 1, 2018;
 - b. the second through twelfth payments shall be due on the first day of each subsequent calendar month, with the twelfth and final payment due on May 1, 2019.

Default on any payment, defined as fifteen (15) days in arrears on any payment, shall render the entire six thousand dollar (\$6,000.00) civil penalty due and payable immediately, in accordance with the terms of paragraph 6 below.

4. The payments described in paragraph 3 shall be made by check and made payable to the “North Carolina Department of Environmental Quality” (or to “NC DEQ”), and delivered to the following address:

Debra Watts
N.C. Department of Environmental Quality
Division of Water Resources
1636 Mail Service Center
Raleigh, NC 27699-1636

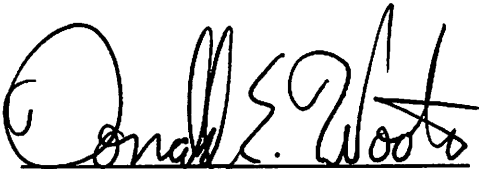
5. Petitioner intends (but is not required as a condition of this Agreement) to submit to Respondent an application for approval of HaloSan, the Berry System, and/or the Bioshield System (collectively, “the System”). Upon receipt of a completed application submitted pursuant to (and referencing) a specific rule, Respondent agrees to review the application and to approve or disapprove the use of the System in good faith and in accordance with all applicable laws, rules, and policies. Should additional information be required before rendering a decision to approve or disapprove Petitioner’s application, Respondent will in good faith use reasonable efforts to communicate the need for any such additional information to Petitioner. Petitioner agrees not to install the System on any further wells in North Carolina pending a final decision from DEQ on Petitioner’s application.
6. In the event Petitioner fails to comply with any of the conditions of this Agreement, Petitioner shall immediately owe Respondent the entire amount of the original civil

penalty assessment, i.e., \$6,000.00, less any payments already made. Petitioner authorizes Respondent to file a Confessed Judgment for the balance remaining due (\$6,000.00 less any payments made) in superior court.

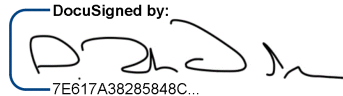
7. Petitioner agrees to file a Notice of Voluntary Dismissal With Prejudice of *Donald Wooten v. North Carolina Department of Environmental Quality, Division of Water Quality*, 17 EHR 04414 (N.C. Office of Administrative Hearings) within five days of the date this Agreement is fully executed.
8. Petitioner expressly agrees that by entering into this Agreement, Petitioner waives, for purposes of collection of any sums due hereunder, any and all defenses to the underlying civil penalty assessment, and that the issues in any action to collect said penalty will be limited to Petitioner's compliance with the terms of this Agreement.
9. Nothing in this Agreement shall restrict the right of Respondent to inspect or take enforcement action against Petitioner for any new, different, or subsequent violations of any applicable well construction rules or laws, well maintenance rules or laws, or any other applicable rules or laws pertaining to wells, or any other environmental laws generally. Similarly, nothing in this Agreement shall restrict the right of Petitioner to contest a new or subsequent enforcement action for any new, different or subsequent violation.
10. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole agreement between them.
11. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter

into this agreement on behalf of the parties hereto. This Agreement is entered into knowingly, intelligently, and voluntarily.

DONALD WOOTEN

By: 
Donald Wooten

NORTH CAROLINA DEPARTMENT
OF ENVIRONMENTAL QUALITY,
DIVISION OF WATER RESOURCES

By: 
Landon Davidson
Department of Environmental Quality

Date: 18 APRIL '18

Date: 5/14/2018